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SENATE

REPORT
100-590

COURT INTERPRETERS IMPROVEMENT ACT

OCTOBER 6, 1988.—Ordered to be printed

Mr. BIDEN, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 1867]

The Committee on the Judiciary, to which was referred the bill (S. 1867) to amend Title 28, United States Code, to make certain improvements with respect to the Federal court interpreter program, and for other purposes, reports favorably with amendments and recommends that the bill as amended do pass.

CONTENTS

		Page
I.	Purpose	1
II.	Legislative history	2
III.	Discussion	2
IV.	Vote of the committee	3
V.	Text of S. 1867	3
VI.	Section-by-section analysis	7
VII.	Cost estimate	10
VIII.	Regulatory impact statement	10
IX.	Changes in existing law	11

I. PURPOSE

The purpose of the committee bill is to amend the Court Interpreters Act of 1978, Title 28, United States Code, to provide competent interpretation services to parties and witnesses in judicial proceedings instituted by the United States in order to assure that such persons who are hearing impaired or who have as their primary language a language other than English may participate meaningfully therein and that the constitutional rights of such persons are fully protected.

29-010

S523-24

II. Legislative History

The committee bill, known as the Court Interpreters Improvement Act of 1988, is bipartisan legislation that was introduced in the 100th Congress on November 10, 1987 by Senators Paul Simon and Orrin Hatch and other Senators. It was referred to the Committee on the Judiciary Subcommittee on Courts and Administrative Practice from which it was reported out favorably with an amendment in the nature of a substitute on August 9, 1988.

No hearing was held on the committee bill in part because a hearing was held in the 99th Congress on legislation (S. 1853) upon which the committee bill was modeled. The Committee on the Judiciary Subcommittee on the Constitution held a hearing on that legislation on February 25, 1986 (S. Hrg. 99-663) and the subcommittee reported it favorably to the Committee with an amendment in the nature of a substitute on June 17, 1986. The committee thereupon reported the legislation favorably with an amendment in the nature of a substitute to the full Senate on October 2, 1986 without a written report.

III. Discussion

This legislation is designed to enhance the effectiveness of the Court Interpreters Act of 1978. The 1978 Act established the right of non-English speaking and hearing impaired defendants and witneses to competent interpretation services in federal courts. In enacting the 1978 Act, Congress recognized that accurate interpretation is of paramount importance if the constitutional right of due process is to be meaningful for all people.

While the 1987 Court Interpreters Act has worked well in improving judicial interpretation services for Spanish speakers, the 10 year history of the act has yielded few visible improvements for other languages. This, and other issues of concern, are addressed in this legislation.

One of the most important improvements made in this bill is the extension of the Court Interpreters Act to grand jury proceedings. Accurate interpretation is particularly significant at the grand jury level. An error in the interpretation of the accused's testimony, or that of a witness, could result in wasted court time and money. More importantly, an interpretation error could result in the incarceration of otherwise innocent individuals. The committee heard extensive testimony about the dangers of this very problem in its hearing on similar legislation in the 99th Congress. (See statements of Patrick O'Leary, John Mochizuki. S. Hrg. 99-663). The extension of interpretation services to grand jury proceedings was apparently inadvertently omitted from the 1978 act. This correction is indispensable if due process is to be meaningful at all stages of the judicial process.

In addition to extending the Court Interpreters Act to grand jury proceedings, this legislation establishes a process whereby the Judicial Council of an individual federal circuit can identify the needs of its linguistic population and request the certification of a given language or languages. The judicial councils' requests would be forwarded to the Judicial Conference which in turn would request the certification of a language/s, on either the national or regional

level, to the Administrative Office of U.S. Courts. The committee believes that this method will ensure a more responsive and active certification of additional languages.

This legislation makes numerous other improvements, among them a mandate that the Director of the Administrative Office of U.S. Courts provide clear guidelines to the courts on the selection of "otherwise qualified interpreters." Court interpretation must have stringent quality control. Otherwise qualified interpreters are to be employed only when certified interpreters are not otherwise available. In keeping with the purposes of this legislation, guidelines are necessary when interpreters have not passed the rigors of full certification, in order to ensure the accuracy required by the Due Process Clause of the Constitution. Quality can be further enhanced by improvements in the availability of court interpreter training programs. As attorney training is conducted by State and private educational institutions, the committee believes that these institutions should play a larger role in court interpreter improvement.

At present there is no uniformity as to whether a judicial proceeding employing interpreters will be electronically sound recorded. This legislation establishes clearer guidelines for such recording. Because a grand jury proceeding provides the foundation for further judicial deliberations and because an accused is without counsel at that stage, electronic sound recording is critical to ensure that due process rights of the accused are adequately protected. This bill provides that, on the motion of the accused, the court shall require the recording of the segments of a grand jury proceedings in which an interpreter is used. In all other stages of a judicial proceedings, the presiding judicial officer is to determine whether to require electronic sound recording. This decision shall be in response to the motion of a party and will be based on identified criteria.

These and other improvements made by the bill will enable the federal courts to become better equipped to handle the linguistically diverse populations that find themselves before our judicial system.

IV. Vote of the Committee

On August 10, 1988, with a quorum present, by voice vote, the Committee on the Judiciary unanimously ordered the bill, S. 1867, favorably reported with an amendment in the nature of a substitute.

V. Text of Bill, as Reported

[S. 1867, 100th Cong., 1st sess.]

A BILL To amend title 28, United States Code, to make certain improvements with respect to the Federal court interpreter program, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Court Interpreters Improvement Act of 1987".

SEC. 2. The Congress hereby finds that—

(1) qualified interpreters are sometimes not provided to non-English speaking persons and the hearing impaired in judicial proceedings conducted pursuant to the jurisdiction and authority of the United States District Courts; and

(2) the failure to provide competent interpretation services to such individuals in Federal judicial proceedings could, under certain circumstances, constitute a denial of rights secured by the fifth and sixth amendments to the Constitution of the United States because such individuals may—

(A) be deprived of life, liberty, or property without due process of law;

(B) be unable to confront adverse witnesses due to a lack of comprehension;

(C) be deprived of the ability to effectively consult with counsel; and

(D) fail to comprehend the rulings and pronouncements of the court and the documentary evidence introduced in such proceedings.

SEC. 3. (a) The Congress declares that the constitutional rights of non-English speaking persons and the hearing impaired, guaranteed by the fifth and sixth amendments to the Constitution of the United States shall be protected by requiring the certification of interpreters of English and other languages and by requiring the promulgation of definitive standards and criteria for otherwise qualified interpreters who may be permitted to participate in Federal judicial proceedings.

(b) The Congress declares that the purpose of this Act is to provide competent interpretation services to parties and witnesses in judicial proceedings instituted by the United States in order to assure that such persons who are hearing impaired or who have as their primary language a language other than English may participate meaningfully therein and that the constitutional rights of such persons are fully protected.

SEC. 4. Nothing in this Act shall be construed to terminate or diminish existing programs for the certification of interpreters.

SEC. 5. Section 1827(a) of title 28, United States Code, is amended to read as follows:

"(a) The Director of the Administrative Office of the United States Courts shall establish a program to facilitate the use of certified and otherwise qualified interpreters in judicial proceedings instituted by the United States.".

SEC. 6. Section 1827(b) of title 28, United States Code, is amended to read as follows:

"(b)(1) The Director shall prescribe, determine, and certify the qualifications of persons who may serve as certified interpreters for the hearing impaired (whether or not also speech impaired) and persons who speak only or primarily a language other than the English language, in judicial proceedings instituted by the United States. The Director shall certify interpreters for any language if the Judicial Conference determines that there is a need for certified interpreters in that language based on the lack of certified or otherwise qualified interpreters in such language and the number of proceedings in which such language will be required. The Judicial Conference shall determine the need for certified interpreters

in languages other than those previously certified based upon the recommendations of the judicial councils of the circuits, who shall identify and evaluate the needs of the districts within a circuit. The Director shall certify interpreters based on the results of criterion-referenced performance examinations. Any such examinations for certification in a language shall be initially administered within 1 year after funds are appropriated for certification in that language. The Director shall issue regulations to carry out this paragraph within 1 year after the date of the enactment of this Act.

"(2) The Director shall provide guidelines to the courts on the selection of otherwise qualified interpreters whose services may be used only in the event that certification is not available in a particular language, or only where no certified interpreter is reasonably available, as provided by subsection (d) of this section, in order to ensure that the highest standards of accuracy are maintained in all judicial proceedings subject to the provisions of this chapter.

"(3) The Director shall maintain a current master list of all certified interpreters and otherwise qualified interpreters and shall report periodically on the use and performance of both certified and otherwise qualified interpreters in judicial proceedings instituted by the United States and on the languages for which interpreters have been certified. The Director shall prescribe, subject to periodic review, a schedule of reasonable fees for services rendered by interpreters, certified or otherwise, used in proceedings instituted by the United States, and in so doing shall consider the prevailing rate of compensation for comparable service in other governmental entities.".

SEC. 7. Section 1827(c) of title 28, United States Code, is amended to read as follows:

"(c)(1) Each United States district court shall maintain on file in the office of the clerk, and each United States attorney shall maintain on file, a list of all persons who have been certified as interpreters by the Director in accordance with subsection (b) of this section. The clerk shall make the list of certified interpreters for judicial proceedings available upon request.

"(2) The clerk or district executive of the court shall be responsible for securing the services of certified interpreters and otherwise qualified interpreters required for proceedings initiated by the United States, except that the United States attorney is responsible for securing the services of such interpreters for governmental witnesses.".

SEC. 8. Section 1827(d) of title 28, United States Code, is amended by—

(1) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) inserting "(1)" after "(d)"; and

(3) adding at the end thereof the following:

"(2) Upon the motion of a party, the presiding judicial officer shall determine whether to require the electronic sound recording of a judicial proceeding in which an interpreter is used under this section. In making this determination, the presiding judicial officer shall consider, among other things, the qualifications of the interpreter and prior experience in interpretation of court proceedings;

whether the language to be interpreted is not one of the languages for which the Director has certified interpreters; and the complexity or length of the proceeding. In a grand jury proceeding, upon the motion of the accused, the presiding judicial officer shall require the electronic sound recording of the portion of the proceeding in which an interpreter is used.".

SEC. 9. Section 1827(g) of title 28, United States Code, is amended—

(a) in paragraphs (1), (2), and (3) to read as follows:

"(1) There are authorized to be appropriated to the Federal judiciary, and to be paid by the Director of the Administrative Officer of the United States Courts, such sums as may be necessary to establish a program to facilitate the use of certified and otherwise qualified itnerpreters, and otherwise fulfill the provisions of this Act, except as provided in subsection (3) below.

"(2) Implementation of the provisions of this section is contingent upon the availability of appropriated funds to carry out the purposes of this section.

"(3) Such salaries, fees, expenses, and costs that are incurred with respect to Government witnesses (including for grand jury proceedings) shall, unless direction is made under paragraph (4) of this subsection, be paid the Attorney General from sums appropriated to the Department of Justice.";

(b) by redesignating existing paragraph (4) as paragraph (5) and by adding a new paragraph (4) to subsection (g) as follows:

"(4) Upon request of any person in any action for which interpreting services established pursuant to subsection (d) are not otherwise provided, the clerk of the District Court or district executive upon the request of the presiding judicial officer, shall, where possible, make such services available to that person on a cost-reimbursable basis, but the judicial officer may also require the prepayment of the estimated expenses of providing such services.".

SEC. 10. Section 1827(h) of title 28, United States Code, is amended to read as follows:

"(h) The presiding judicial officer shall approve the compensation and expenses payable to interpreters, pursuant to the schedule of fees fixed by the Director.".

SEC. 11. Section 1827(i) of title 28, United States Code, is amended to read as follows:

"(i) The term 'presiding judicial officer' as used in this section refers to any judge of a United States district court, including a bankruptcy judge, and a United States magistrate or, for grand jury proceedings conducted under the auspices of the United States attorney, a United States attorney.".

SEC. 12. Section 1827(j) of title 28, United States Code, is amended to read as follows:

"(j) The term 'judicial proceeding' as used in this section refers to all proceedings, whether criminal or civil, including pretrial and grand jury proceedings (as well as proceedings upon a petition for a writ of habeas corpus initiated in the name of the United States by a relator), instituted by the United States and conducted in, or pursuant to, the lawful authority and jurisdiction of a United States District Court. The term 'United States District Court' as used in this subsection includes any court created by Act of Congress in a

state or territory which is invested with any jurisdiction of a District Court of the United States established by section 132 of this title.".

SEC. 13. Section 1827(k) of title 28, United States Code, is amended to read as follows:

"(k) The interpretation provided by certified or otherwise qualified interpreters pursuant to this section shall be in the simultaneous mode for any party to a judicial proceeding instituted by the United States and in the consecutive mode for witnesses, except that the presiding judicial officer, sua sponte or on the motion of a party, may authorize a simultaneous, or consecutive interpretation when such officer determines after a hearing on the record that such interpretation will aid in the efficient administration of justice. The presiding judicial officer on such officer's motion or on the motion of a party may order that special interpretation services as authorized in section 1828 of this title be provided if such officer determines that the provision of such services will aid in the efficient administration of justice.".

SEC. 14. The amendments made by this Act shall take effect on the date of enactment of this Act.

VI. SECTION-BY-SECTION ANALYSIS

SECTION 1

This section provides that this act may be cited as the "Court Interpreters Improvement Act of 1988".

SECTION 2

This section contains the congressional findings that qualified court interpreter services are sometimes not provided to non-English speaking persons and the hearing impaired and that the failure to provide such services could deny these individuals rights secured by the fifth and sixth amendments, particularly as they may be unable to confront adverse witnesses, to consult with counsel, and to comprehend the rulings and pronouncements of the court.

SECTION 3

This section contains the congressional declaration that the constitutional rights of non-English speaking persons and the hearing impaired shall be protected by requiring the certification of interpreters of English and other languages and by requiring the promulgation of definitive standards and criteria for otherwise qualified interpreters. This section further states the congressional purpose of this act is to provide competent interpretation services to parties and witnesses in judicial proceedings instituted by the United States in order to ensure that the hearing impaired and non-English speakers may participate meaningfully therein.

SECTION 4

This section provides that nothing in this act shall be construed to terminate or diminish existing programs for the certification of interpreters.

SECTION 5

This section amends section 1827(a) of title 28 to provide that the Director of the Administrative Office of the United States Courts shall establish a program to facilitate the use of certified and otherwise qualified interpreters in all judicial proceedings instituted by the United States.

SECTION 6

This section amends section 1827(b) of title 28 to provide that the Director of the administrative Office of the United States Courts shall prescribe, determine and certify the qualifications of persons who may serve as certified interpreters in proceedings under this act. Certification shall be for any language if the Judicial Conference determines that there is a need for certified interpreters in that language based upon the lack of certified or otherwise qualified interpreters in such language and the number of proceedings in which such language will be required. The Judicial Conference shall determine the need for certification based upon the recommendations of the judicial councils of the circuits who shall identify and evaluate the needs of the districts within each circuit. The director shall certify interpreters based on the results of criterion-referenced performance examinations. Certification examinations shall be initially administered within a year after funds are appropriated for certification in that language. The director shall issue regulations to carry out this section within a year from the date of enactment of this act.

SECTION 7

This section amends section 1827(c) of title 28 to provide that each U.S. district court and each U.S. attorney maintain on file a list of persons who have been certified as interpreters by the Director. This list is to be provided upon request. The clerk or district executive of the court shall be responsible for securing the services of an intepreter for all judicial proceedings initiated by the United States, except that the U.S. attorney shall be responsible for securing the services of interpreters for government witnesses.

SECTION 8

This section makes technical changes and amends section 1827(d) of title 28 to provide that the presiding judicial officer, on the motion of a party, shall determine whether to require the electronic sound recording of a judicial proceeding in which an interpreter is used. The presiding judicial officer shall consider, in making this determination, the qualifications of the interpreter and prior experience in interpretation of court proceedings; whether the language to be interpreted is not one of the languages for which the Director has certified interpreters; and the complexity or length of the proceeding. In a grand jury proceeding, at the request of the accused, the presiding judicial officer shall require the electronic sound recording of the portion of the proceeding in which an interpreter is used.

SECTION 9

This section amends section 1827(g) of title 28 to authorize the appropriation to the federal judiciary of such sums as are necessary to establish the program. Implementation of the provisions of this section is contingent upon the availability of appropriated funds to carry out the purposes of this section. This section also provides that the salaries, fees, expenses and costs incurred with respect to government witnesses, including for grand jury proceedings, shall be paid by the Attorney General out of sums appropriated to the Department of Justice. This section also provides that any person who is not provided an interpreter pursuant to subsection (d) of this section may request interpreting services from the Director on a cost-reimbursable basis. The judicial officer may require the prepayment of the estimated expenses of providing such a service. Existing paragraph (4) is redesignated as paragraph (5).

SECTION 10

This section amends section 1827(h) of title 28 to require that the presiding judicial officer approve compensation and expenses paid to an interpreter pursuant to the fee schedule fixed by the Director.

SECTION 11

This section amends section 1827(i) of title 28 to further define the term "presiding judicial officer" for purposes of this title to include any judge of a U.S. district court; a bankruptcy judge; a U.S. magistrate, or for grand jury proceedings conducted under the auspices of the U.S. attorney, a U.S. attorney.

SECTION 12

This section amends section 1827(j) of title 28 to further define "judicial proceeding" to refer to all proceedings, whether criminal or civil, including pretrial and grand jury proceedings as well as proceedings upon a petition for a writ of habeas corpus initiated in the name of the United States by a relator, instituted by the United States and conducted in, or pursuant to, the lawful authority and juisdiction of a U.S. district court.

SECTION 13

This section amends section 1827(k) of title 28 to provide that interpretations provided by certified or otherwise qualified interpreters shall be in the simultaneous mode for any party to a judicial proceeding instituted by the United States and in the consecutive mode for witnesses with the exception that the presiding judicial officer, on its own or a party's motion, may authorize a simultaneous or consecutive interpretation when such officer determines after a hearing on the record that such interpretation will aid in the efficient administration of justice. This section also provides that the presiding judicial officer on its own or a party's motion may order that special interpretation services as authorized in Section 1828 be provided upon such officer's determination that the

provision of such services will aid in the efficient administration of justice.

SECTION 14

This section provides that the effective date of the amendments made by this act shall be the date of enactment of this act.

VII. Cost Estimate

U.S. Congress,
Congressional Budget Office,
Washington, DC, September 8, 1988.

Hon. Joseph R. Biden, Jr.,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed S. 1867, the Court Interpreters Improvement Act of 1987, as ordered reported by the Senate Committee on the Judiciary, August 10, 1988. We estimate that enactment of the bill would result in no significant cost to the federal government and in no cost to state or local governments.

S. 1867 would require the Director of the Administrative Office of the U.S. Courts [AOUSC] to provide certified and otherwise qualified interpreters in judicial procedings instituted by the United States. The bill also would require that the Director certify interpreters for languages only where the Judicial Conference has determined that such a need exists. In addition, S. 1867 would require the Director to issue regulations for testing and certifying interpreters and to provide guidelines to the courts for selecting interpreters when certified ones are not available.

Based on information provided by the AOUSC and the Department of Justice [DOJ], we estimate that enactment of S. 1967 would result in no significant cost to the federal government. Currently the AOUSC provides interpreters for court proceedings instituted by the United States, while DOJ provides interpreters for governmental witnesses. Additional costs to provide interpreters for other judicial proceedings, such as pretrial and grand jury proceedings, would not be significant because currently interpreters are usually provided for such proceedings. The costs for implementing other requirements of the bill also would not be significant.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mitchell Rosenfeld, who can be reached at 226-2860.

Sincerely,

James L. Blum, *Acting Director.*

VIII. Regulatory Impact Statement

Pursuant to paragraph 11(b), rule XXVI of the standing Rules of the Senate, the committee, after due consideration, concludes that the act will not have direct regulatory impact.

IX. Changes in Existing Law

In compliance with paragraph (12) of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 1867 are as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

UNITED STATES CODE

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TITLE 28—JUDICIARY AND JUDICIAL PROCEDURE

CHAPTER 119—EVIDENCE; WITNESSES

* * * * * * *

§ 1827. Interpreters in courts of the United States

[(a) The Director of the Administrative Office of the United States Courts shall establish a program to facilitate the use of interpreters in courts of the United States.

[(b) The Director shall prescribe, determine, and certify the qualifications of persons who may serve as certified interpreters in courts of the United States in bilingual proceedings and proceedings involving the hearing impaired (whether of not also speech impaired), and in so doing, the Director shall consider the educational training and experience of those persons. The Director shall maintain a current master list of all interpreters certified by the Director and shall report annually on the frequency of requests for, and the use and effectiveness of, interpreters. The Director shall prescribe a schedule of fees for services rendered by interpreters.

[(c) Each United States district court shall maintain on file in the office of the clerk of court a list of all persons who have been certified as interpreters, including bilingual interpreters and oral or manual interpreters for the hearing impaired (whether or not also speech impaired), by the Director of the Administrative Office of the United States Courts in accordance with the certification program established pursuant to subsection (b) of this section.]

(a) The Director of the Administrative Office of the United States Courts shall establish a program to facilitate the use of certified and otherwise qualified interpreters in judicial proceedings instituted by the United States.

(b) The Director shall prescribe, determine, and certify the qualifications of persons who may serve as certified interpreters for the hearing impaired (whether or not also speech impaired) and persons who speak only or primarily a language other than the English language, in judical proceedings instituted by the United States. The Director shall certify interpreters for any language if the Judicial Conference determines that there is a need for certified interpreters in that language based on the lack of certified or otherwise qualified interpreters in such language and the number of proceedings in

which such language will be required. The Judicial Conference shall determine the need for certified interpreters in languages other than those previously certified based upon the recommendations of the judicial councils of the circuits, who shall identify and evaluate the needs of the districts within a circuit. The Director shall certify interpreters based on the results of criterion-referenced performance examinations. Any such examinations for certification in a language shall be initially administered within 1 year after funds are appropriated for certification in that language. The Director shall issue regulations to carry out this paragraph within 1 year after the date of the enactment of this Act.

(c)(1) Each United States district court shall maintain on file in the office of the clerk, and each United States attorney shall maintain on file, a list of all persons who have been certified as interpreters by the Director in accordance with subsection (b) of this section. The clerk shall make the list of certified interpreters for judicial proceedings available upon request.

(2) The clerk or district executive of the court shall be responsible for securing the services of certified interpreters and otherwise qualified interpreters required for proceedings initiated by the United States, except that the United States attorney is responsible for securing the services of such interpreters for governmental witnesses.

(d)*(1)* The presiding judicial officer, with the assistance of the Director of the Administrative Office of the United States Courts, shall utilize the services of the most available certified interpreter, or when no certified interpreter is reasonably available, as determined by the presiding judicial officer, the services of an otherwise competent interpreter in any criminal or civil action initiated by the United States in a United States district court (including a petition for a writ of habeas corpus initiated in the name of the United States by a relator if the presiding judicial officer determines on such officer's own motion or on the motion of a party that such party (including a defendant in a criminal case), or a witness who may present testimony in such action

[(1)**]** *(A)* speaks only or primarily a language other than the English language; or

[(2)**]** *(B)* suffers from a hearing impairment (whether or not suffering also from a speech impairment)

so as to inhibit such party's comprehension of the proceedings or communication with counsel or the presiding judicial officer, or so as to inhibit such witness' comprehension of questions and the presentation of such testimony.

(2) Upon the motion of a party, the presiding judicial officer shall determine whether to require the electronic sound recording of a judicial proceeding in which an interpreter is used under this section. In making this determination, the presiding judicial officer shall consider, among other things, the qualifications of the interpreter and prior experience in interpretation of court proceedings; whether the language to be interpreted is not one of the languages for which the Director has certified interpreters; and the complexity or length of the proceeding. In a grand jury proceeding, upon the motion of the accused, the presiding judicial officer shall require the electron-

ic sound recording of the portion of the proceeding in which an interpreter is used.

* * * * * * *

[(g)(1) Except as otherwise provided in this subsection or section 1828 of this title, the salaries, fees, expenses, and costs incident to providing the services of interpreters under subsection (d) of this section shall be paid by the Director of the Administrative Office of the United States Courts from sums appropriated to the Federal judiciary.

[(2) Such salaries, fees, expenses, and costs that are incurred with respect to Government witnesses shall, unless direction is made under paragraph (3) of this subsection, be paid by the Attorney General from sums appropriated to the Department of Justice.

[(3) The presiding judicial officer may in such officer's discretion direct that all or part of such salaries, fees, expenses, and costs shall be apportioned between or among the parties or shall be taxes as costs in a civil action.]

(g)(1) There are authorized to be appropriated to the Federal judiciary, and to be paid by the Director of the Administrative Office of the United States Courts, such sums as may be necessary to establish a program to facilitate the use of certified and otherwise qualified interpreters, and otherwise fulfill the provisions of this Act, except as provided in subsection (3) below.

(2) Implementation of the provisions of this section is contingent upon the availability of appropriated funds to carry out the purposes of this section.

(3) Such salaries, fees, expenses, and costs that are incurred with respect to Government witnesses (including for grand jury proceedings) shall, unless direction is made under paragraph (4) of this subsection, be paid by the Attorney General from sums appropriated to the Department of Justice.

(4) Upon request of any person in any action for which interpreting services established pursuant to subsection (d) are not otherwise provided, the clerk of the District Court or district executive upon the request of the presiding judicial officer, shall, where possible, make such services available to that person on a cost-reimbursable basis, but the judicial officer may also require the prepayment of the estimated expenses of providing such services.

[(4)] *(5)* Any moneys collected under this subsection may be used to reimburse the appropriations obligated and disbursed in payment for such services.

[(h) In any action in a court of the United States where the presiding judicial officer establishes, fixes, or approves the compensation and expenses payable to an interpreter from funds appropriated to the Federal judiciary, the presiding judicial officer shall not establish, fix, or approve compensation and expenses in excess of the maximum allowable under the schedule of fees for services prescribed pursuant to subsection (b) of this section.]

(h) The presiding judicial officer shall approve the compensation and expenses payable to interpreters, pursuant to the schedule of fees fixed by the Director.

[(i) The term "presiding judicial officer" as used in this section and section 1828 of the title includes a judge of a United States dis-

trict court, a United States magistrate, and a referee in bankruptcy.]

(i) The term "presiding judicial officer" as used in this section refers to any judge of a United States district court, including a bankruptcy judge, and a United States magistrate or, for grand jury proceedings conducted under the auspices of the United States attorney, a United States attorney.

[(j) The term "United States district court" as used in this section and section 1828 of the title includes any court created by Act of Congress in a territory which is invested with any jurisdiction of a district court of the United States established by section 132 of this title.]

(j) The term "judicial proceeding" as used in this section refers to all proceedings, whether criminal or civil, including pretrial and grand jury proceedings (as well as proceedings upon a petition for a writ of habeas corpus initiated in the name of the United States by a relator), instituted by the United States and conducted in, or pursuant to, the lawful authority and jurisdiction of a United States District Court. The term "United States District Court" as used in this subsection includes any court created by Act of Congress in a state or territory which is invested with any jurisdiction of a District Court of the United States established by section 132 of this title.

[(k) The interpretation provided by certified interpreters pursuant to this section shall be in the consecutive mode except that the presiding judicial officer, with the approval of all interested parties, may authorize a simultaneous or summary interpretation when such officer determines that such interpretation will aid in the efficient administration of justice. The presiding judicial officer on such officer's motion or on the motion of a party may order that special interpretation services as authorized in section 1828 of this title be provided if such officer determines that the provision of such services will aid in the efficient administration of justice.]

(k) The interpretation provided by certified or otherwise qualified interpreters pursuant to this section shall be in the simultaneous mode for any party to a judicial proceeding instituted by the United States and in the consecutive mode for witnesses, except that the presiding judicial officer, sua sponte or on the motion of a party, may authorize a simultaneous, or consecutive interpretation when such officer determines after a hearing on the record that such interpretation will aid in the efficient administration of justice. The presiding judicial officer on such officer's motion or on the motion of a party may order that special interpretation services as authorized in section 1828 of this title be provided if such officer determines that the provision of such services will aid in the efficient administration of justice.

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